

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DELFIN T. SANCHEZ VELIZ,

Plaintiff,

- against -

NYPD, ICE, FBI, MIAMI DADE POLICE DEPT.
(MDPD), FLORIDA KEYS POLICE DEPT.
(FKPD),

ORDER
13-CV-2859 (RRM)(LB)

Defendants.

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ROSLYNN R. MAUSKOPF, United States District Judge.

On May 13, 2013, plaintiff Delfin T. Sanchez Veliz, appearing *pro se*, filed this action. The Court grants plaintiff's request to proceed *in forma pauperis* solely for the purpose of this Order and dismisses the complaint as set forth below.

DISCUSSION

In reviewing plaintiff's complaint, the Court is mindful that, "a *pro se* complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (internal quotation marks omitted). The Court is obliged to construe plaintiff's pleadings liberally and interpret them as presenting the strongest arguments they suggest. *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009). Nonetheless, the Court may dismiss a complaint "at any time" if the Court determines that it "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." An action is "frivolous" when either: (1) "the 'factual contentions are clearly baseless,' such as when allegations are the product of delusion or fantasy;" or (2) "the claim is 'based on an indisputably meritless legal theory.'" *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (internal citations omitted).

The Supreme Court has observed that a “finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992); *see also Neitzke v. Williams*, 490 U.S. 319, 325 (1989). Plaintiff’s pleadings are irrational and incredible. Plaintiff’s allegations – even under the very liberal reading we accord *pro se* pleadings, (and even if plaintiff himself believes them to be true), can only be described as delusional and fantastic. *See Denton*, 504 U.S. at 33. Plaintiff alleges that defendants are part of a widespread conspiracy involving police and the Federal Bureau of Investigation in New York, New Jersey and Florida to harass him because they believe he is Cuban spy based on reports from his family members. *See generally* Compl. Since the complaint is devoid of any basis in law or fact, defects which cannot be cured by amendment, this frivolous action is dismissed. *Livingston*, 141 F.3d at 437.

Accordingly, the complaint, filed *in forma pauperis*, is dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and, therefore, *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court shall mail a copy of this Order and the accompanying Judgment to Plaintiff.

SO ORDERED.

Dated: Brooklyn, New York
June 18, 2013

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge